

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ALLAN A. PETERSEN,

Plaintiff,

v.

**Civil Action No. 5:06cv106
(Judge Stamp)**

**BRIAN PRICE, MICHELLE SPEARS,
DOMINIC A. GUTIERREZ, SR., SUSAN
MCCLINTOCK AND MAVIS HOLYFIELD,**

Defendants.

**OPINION/REPORT AND RECOMMENDATION ON PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION**

This case is before the Court on plaintiff's Motion for Preliminary Injunction. In the motion, plaintiff asserts that he was placed in the Special Housing Unit and removed him his legal materials. Accordingly, plaintiff seeks to be moved to another institution.

Although titled as a motion preliminary injunction, plaintiff does not actually seek injunctive relief. Rather, plaintiff simply requests that he be moved to another institution. Therefore, it is recommended that plaintiff's motion for injunctive relief (dckt. 67) be construed as a motion for transfer and **DENIED**, as the Court does not have the authority to grant plaintiff the relief he seeks. See Meachum v. Fano, 427 U.S. 215 (1976) (the transfer of a convicted and sentenced inmate is within the sound discretion of the BOP); see also, 18 U.S.C. § 3621(b) (the BOP shall designate the place of an inmate's confinement).

Within ten (10) days after being served with a copy of this opinion/recommendation, any party may file with the Clerk of Court written objections identifying those portions of the recommendation to which objection is made and the basis for such objections. A copy of any

objections should also be submitted to the Honorable Frederick P. Stamp, Jr., United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to transmit a copy of this Opinion/Report and Recommendation to the *pro se* plaintiff.

DATED: April 20, 2007.

/s John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE